

REMARKS

Reconsideration of the present application is requested. Claims 9, 12-14 and 22 have been canceled without prejudice. Claims 1-8, 10, 11, 15-21 and 23-25 are currently pending. Of those, claims 1, 2 and 25 have been amended and claim 1 is the sole independent claim.

ENTRY OF AMENDMENT AFTER FINAL REQUESTED IN LIGHT OF EXAMINER'S BELIEF THAT THE AMENDMENTS MADE HEREIN DO NOT RAISE NEW ISSUES

During a September 14, 2006 Personal Interview (discussed in more detail below), the Examiner indicated that an RCE would not be necessary to have the amendments made herein (including the amendments previously submitted in Applicants' August 1, 2006 Response) entered and considered because none of these amendments raise new issues requiring further consideration or search. Therefore, entry of this Amendment After Final is requested.

COMMENTS ON SEPTEMBER 14, 2006 PERSONAL INTERVIEW WITH EXAMINER

Initially, Applicants thank the Examiner for conducting a personal interview with Applicants' Representative on September 14, 2006. During the interview, Applicants' Representative and the Examiner primarily discussed independent claim 1. The Examiner conceded that the types of data being collected and the data collection process of Guru and Gard differ from the computer tomography unit of claim 1. *Interview Summary*, p. 2 (September 15, 2006). Particularly, neither Guru nor Gard collects "dark value data." *Id.* The

Examiner proposed that Applicants amend claim 1 to replace "raw data" with "dark value data," in order to further distinguish claim 1 from Guru and Gard. *Id.*

As discussed during the Personal Interview, and evidenced by the *Interview Summary*, even assuming that one of ordinary skill would have been motivated to modify Guru with the teachings of Gard for the purposes of compensating gain offsets (which Applicants do not admit), claim 1 records data in the form of dark values at least for the purpose of producing a quality statement concerning the data acquisition system. *See, e.g.*, Claim 1 ("a further parameter for assessment of the data transmission path"). Thus, whereas Guru and Gard are concerned only with assessing the performance of the radiation detector, the computer tomography unit of claim 1 uses dark value data to assess the performance of the radiation detector and the data transmission path.

As stated above, during the interview, the Examiner also indicated that an RCE would not be necessary to have the amendments made herein (including the amendments previously submitted in Applicants' August 1, 2006 Response) entered and considered because none of these amendments raise new issues.

If the Examiner believes that the amendments and remarks set forth herein are not sufficient to overcome the current rejection, Applicants request the Examiner contact the undersigned below.

PRIOR ART REJECTIONS
REJECTION UNDER 35 U.S.C. §103

The Examiner rejects claims 1 and 4-9 under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 6,505,966 ("Guru") and U.S. Patent No. 5,220,589 ("Gard"). This rejection is respectfully traversed.

I. THE ABOVE REJECTION SHOULD BE WITHDRAWN BECAUSE THE EXAMINER HAS FAILED TO ESTABLISH A PRIMA FACIE CASE OF OBVIOUSNESS FOR REJECTING CLAIM 1.

The above rejection should be withdrawn because the Examiner has failed to establish a *prima facie* case of obviousness for rejecting claim 1. To establish a *prima facie* case of obviousness, the prior art references when combined must teach or suggest all features of the claim. M.P.E.P. § 706.02(j). In the present case, even assuming *arguendo* that Guru and Gard could be combined (which Applicants do not admit), the combination still fails to teach an evaluation device adapted to perform, "*initiating at least one measurement for production of dark value data with the X-ray beam source switched off,*" and "*calculating, using the dark value data, at least one value of a parameter describing a signal offset of the radiation detector and a further parameter for assessment of the data transmission path,*" as required by claim 1. Therefore, the rejection should be withdrawn because a *prima facie* case for rejecting claim 1 has not been established.

A. A PRIMA FACIE CASE OF OBVIOUSNESS HAS NOT BEEN ESTABLISHED BECAUSE NEITHER GURU NOR GARD, TAKEN SINGLY OR IN COMBINATION, TEACH "INITIATING AT LEAST ONE MEASUREMENT FOR PRODUCTION OF DARK VALUE DATA WITH THE X-RAY BEAM SOURCE SWITCHED OFF," AS SET FORTH IN CLAIM 1.

In Guru, the method of FIG. 5 requires "energizing of the x-ray source 16." Guru at col. 5, l. 10. Consequently, in Guru no measurements are taken in the form of dark value data because the system of Guru does not take measurements with the X-ray beam source switched off. Therefore, regardless of whether Guru and Gard could be combined (which Applicants continue to disagree with for at least the reasons set forth previously), measurements cannot be initiated with the X-ray beam source switch off because the system of Guru requires "energizing of the x-ray source 16."

B. A PRIMA FACIE CASE OF OBVIOUSNESS HAS NOT BEEN ESTABLISHED BECAUSE NEITHER GURU NOR GARD, TAKEN SINGLY OR IN COMBINATION, TEACH "CALCULATING, USING THE DARK VALUE DATA, AT LEAST ONE VALUE OF A PARAMETER DESCRIBING A SIGNAL OFFSET OF THE RADIATION DETECTOR AND A FURTHER PARAMETER FOR ASSESSMENT OF THE DATA TRANSMISSION PATH," AS SET FORTH IN CLAIM 1.

The Examiner relies upon FIG. 5 of Guru to allegedly teach calculating, "calculating, using the dark value data, at least one value of a parameter describing a signal offset of the radiation detector and a further parameter for assessment of the data transmission path," as set forth in claim 1. Applicants disagree.

As discussed above, even assuming *arguendo* that Guru could be combined with Gard, the combination still fails to teach at least "initiating at least one measurement for production of dark value data with the X-ray beam

source switched off," because Guru requires "energizing of the x-ray source 16." Guru at col. 5, l. 10. Absent any teaching of the "dark value data," of claim 1, the combination of Guru and Gard (assuming *arguendo* the combination could be made), also fails to teach or suggest "calculating, using the dark value data, at least one value of a parameter describing a signal offset of the radiation detector and a further parameter for assessment of the data transmission path," as set forth in claim 1. For at least this reason, the rejection should be withdrawn.

C. A PRIMA FACIE CASE RENDERING CLAIM 1 OBVIOUS HAS NOT BEEN ESTABLISHED BECAUSE GARD TEACHES AWAY FROM GURU.

According to Gard, carrying out an assessment of radiation detector quality when collecting dark value data (i.e., collecting data with the x-ray beam switched off) for compensating offset errors is disadvantageous. Col. 2, ll. 1-6. Aside from this teaching, Gard explicitly and exclusively refers to the correction of gain errors, but makes no teaching or suggestion that it would be advantageous or desirable to calculate an additional or "further parameter," for assessment of the data transmission path based on the dark value data, as required by claim 1. Therefore, one of ordinary skill in the relevant art having knowledge of both Guru and Gard would not have been motivated to calculate a parameter describing a signal offset of the radiation detector and a further parameter for assessment of the data transmission path using dark value data measured with x-ray beam source switched off. For at least the foregoing reasons, the rejection of claim 1 should be withdrawn. The rejection of claims 4-9 should also be withdrawn for at least somewhat similar reasons.

D. THE TEACHINGS OF GURU AND GARD ARE NOT SUFFICIENT TO RENDER THE DEVICE OF CLAIM 1 OBVIOUS BECAUSE THE EXAMINER'S PROPOSED MODIFICATION WOULD CHANGE THE PRINCIPAL OPERATION OF GURU.

The teachings of Guru and Gard are not sufficient to render the device of claim 1 obvious because the Examiner's proposed modification would change the principal operation of Guru. *In re Ratti*, 270 F.2d 810 (CCPA 1959); MPEP § 2143.02(VI). As discussed above, Guru requires energizing the x-ray source 16. *Guru* at col. 5, line 10. That is, *Guru* discusses only taking measurements with the x-ray source 16 on. However, if *Guru* were modified to take measurements with the X-ray beam off as suggested by the Examiner, this would change the principle operation of *Guru* because *Guru* only teaches a system that takes measurements with the x-ray source 16 on. Therefore, because this proposed modification would change the principal operation of *Guru*, the teachings of *Guru* and *Gard* are not sufficient to render the device of claim 1 obvious.

CONCLUSION

In view of above remarks, reconsideration of the outstanding rejection and allowance of the pending claims is respectfully requested.

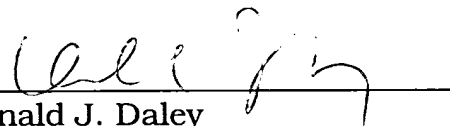
If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Andrew M. Waxman, Reg. No. 56,007, at the number of the undersigned listed below.

Pursuant to 37 C.F.R. 1.17 and 1.136(a), the Applicants respectfully petition for a one (1) month extension of time for filing a response in connection with the present application, and the required fee of \$120.00 is attached.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNES, DICKEY & PIERCE, PLC

By 
Donald J. Daley
Reg. No. 34,313

DJD/AMW:jcp



P.O. Box 8910
Reston, VA 20195
(703) 668-8000